

# IR35 off-payroll working legislation: quick facts, are you ready?

The UK economy has faced adverse effects due to the pandemic including a shrinking economy, much higher public spending, and inevitable lay-offs to name a few. With all of this going on, off-payroll working legislation is still set to be law from April 2021.

You as hirers need to understand the mechanism of this legislation its risks and how it may affect you. At **giant**, we are happy to assist you throughout the complex journey this legislation brings.



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## what is off-payroll working?

Firstly, it is important to understand what it means to be considered as “off-payroll working”. This applies to workers that are operating via their own personal service companies while providing services to their clients. A report showed that during the year 2019, there were almost 5 million self-employed workers in the UK many of which are contractors. HMRC believes that often these contractors are really employees of the hirer hiding behind the status of “self-employed”.

Currently it is the responsibility of the worker to determine their own employment status by assessing their contract and working practises against what is known as the IR35 intermediaries legislation. An ‘outside IR35’ decision means the contractor pays significantly less tax. HMRC believe the workers often do not do the assessments correctly. HMRC think that nine out of ten times, the ‘outside IR35’ decisions are incorrect.

To avoid this, the government is shifting the responsibility to the hirers. This means that the hirers will be responsible for determining their employment status. This shift of responsibility also shifts the risk to you as hirers. If you somehow get the assessments wrong or decide to go for blanket assessments, you may be held accountable for the amount owed by these personal service companies. Therefore, reasonable care should be given while carrying out assessments to make sure that the results are 100% accurate.



## what is changing and when?

The IR35 off-payroll working legislation was originally going to be implemented in April 2020, but due to the pandemic, it got pushed to April 2021. The government has passed the legislation and it is all set to come into the private sector in April 2021 as planned.

Hirers like you also need to have a clear understanding of what it means and how the rules apply. At giant, we provide tailored services and full assistance to help you understand everything about the off-payroll working legislation and what it means for your workers to be inside or outside IR35 including providing engagement solutions for your workers so future payments to them are compliant with the legislation.

If an assignment is inside IR35, it means that your contractors are liable to pay taxes, national insurance, and apprenticeship levy. However, if an assignment is outside IR35, it implies that the contractor can continue to pay themselves how they choose which is normally via dividends.



## who do the changes affect?

Now you may be thinking who the rules apply to, and how do you know if the contractors you engage need to get assessed.

According to HMRC, the off-payroll working legislation does not affect small companies. To be smart and efficient in its decision, HMRC set the following criteria for a company to qualify as a “small company”

- balance sheet total less than or equal to £5.1 million, or
- annual turnover less than or equal to £10.2 million, or
- less than or equal to 50 employees



## what is the impact of these changes?

To stay compliant , it is essential that the assessments are carried out in a professional manner taking working practices into consideration according to their significance. Working practices are ultimately the criteria that determine the engagement type. These include mutuality of obligation, control, substitution, worker's equipment, etc.



## about giant

Since 1992 giant have provided specialist, end to end workforce management software and support services for organisations of all sizes, globally.

We invest heavily in our cloud-based software which ranges from talent acquisition and onboarding through to timesheet management, billing and payroll. Our support services include candidate screening, employment solutions and legislative risk management including employment status advice.

You can relax knowing your data is safe with us. Our commitment to compliance protects your business from risk and our rigorous international security standard ISO 27001 ensures that your data is GDPR secure.



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The logo for 'giant' is rendered in a stylized, blue-outlined font. The letters are interconnected, with the 'i' and 'a' being particularly prominent. The overall look is modern and tech-oriented.